

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 5 of 1987

Hon'ble MR.JUSTICE S.D.DAVE

and

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HINDUSTAN CIBA GEIGY LTD.

Versus

N.G.BHASAR

Appearance:

MR ASHOK L SHAH for Petitioner
MR.K.C. SHAH PUBLIC PROSECUTOR for Respondent No.1&2
SERVED for Respondent No. 3

CORAM : MR.JUSTICE S.D.DAVE and
MR.JUSTICE Y.B.BHATT

Date of decision: 02/07/97

ORAL JUDGEMENT (Per S.D. Dave J.)

1. The petitioner Hindustan Ciba Geigy Ltd., a company registered under the Companies Act, 1956, having their registered office at Bombay is before us under the present petition.

2. Exh.A available at page 12 of the compilation appears to be the root cause for filing the present petition. The said document happens to be a private complaint filed before the learned Metropolitan Magistrate, Court No.5, Ahmedabad, by one Mr. N.G. Bhavsar who was the Inspector under the Standards of Weights and Measures Act, 1976. It appears that the said officer had visited a provision store situated within the city of Ahmedabad and had seen that the packets of dog biscuits and the tooth paste being sold under the brand name of "Binaca Top Super Fresh Tooth Paste" in the packets containing the quantity of 50 grams and 75 grams were not having two particulars viz. the month and the year of the manufacture. It is on these allegation that the complainant has filed the abovesaid complaint under section 39 of the Standards of Weights and Measures Act, 1976. Leaving aside all other contentions learned counsel Mr. Ashok L. Shah concentrates upon the provisions contained under section 39(1) of the said Act and urges that the abovesaid accusation would not be an offence as understood under the abovesaid provisions of the Act of 1976. Upon a plain reading of the complaint filed by Mr. Bhavsar and the provisions of the said section of the Act of 1976, it appears that the contention coming from learned counsel Mr. Shah requires to be accepted.

3. It should be appreciated that though the complaint is in respect of two different manufacturers viz. the Dog Biscuit and the Tooth Paste, the petition has been filed by the manufacturers of the Tooth Paste viz. Hindustan Ciba Geigy Limited who are the petitioners before us. Therefore the petition shall have to be allowed qua the abovesaid petitioners and qua the product in question viz. the Tooth Paste. In other words, we do not say anything in respect of the other product viz. the Dog Biscuit.

4. The petition as specified in the limited spheres succeeds and the same is hereby allowed to the said extent. The complaint against the petitioners i.e. accused nos.5 and 6 of the complaint qua the above-said product viz. the Tooth Paste has been quashed. As a consequence we must also quash the complaint in respect of the store, retailer and its partners viz. accused nos.1 to 4 of the complaint. Rule is made absolute to the aforesaid extent.

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